

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JAMES BUTLER,)	Case No. 05-72727
)	
Petitioner.)	Arthur J. Tarnow
)	District Judge
v.)	
)	
BARRY DAVIS,)	Paul Komives
)	Magistrate Judge
Respondent.)	

**ORDER DENYING PETITIONER'S OBJECTIONS [DE 37], ADOPTING REPORT AND
RECOMMENDATION [DE 33], DENYING PETITIONER'S MOTION TO COMPEL
PRODUCTION OF GRAND JURY DOCUMENTS [DE 38], GRANTING
RESPONDENT'S MOTION FOR SUMMARY JUDGMENT [DE 17], AND DISMISSING
PETITION FOR HABEAS**

I. INTRODUCTION

This is a *habeas corpus* case under 28 U.S.C. § 2254 and 28 U.S.C. § 2241. The Court referred the case to Magistrate Judge Komives for report and recommendation. The Magistrate Judge recommends that the petition be dismissed for failure to comply with the statute of limitations. Petitioner has filed objections to the report and recommendation.

The Court has reviewed the report and recommendation and the pleadings, including Petitioner's objections. For the reasons that follow, Petitioner's objections are denied, the report and recommendation is adopted, Respondent's motion for summary judgment is granted, and the petition is dismissed.

In addition, Petitioner filed a motion to compel production of grand jury documents. Because the Court is dismissing the petition for *habeas corpus*, Petitioner is not entitled to production of such documents. Therefore, the motion to compel is denied.

II. DISCUSSION

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The Magistrate Judge recommends that the petition for habeas corpus should be dismissed because it failed to comply with the statute of limitations, 28 U.S.C. § 2244. In his objections, Petitioner argues: (1) that Respondent wrongfully failed to produce documents relevant to the Petition as part of its response under 28 U.S.C. § 2249; (2) that the Magistrate Judge's orders reflect bias and prejudice against Petitioner; and (3) that the Magistrate Judge's orders violate his rights under the Fourth Amendment, Fifth Amendment, Fourteenth Amendment, and 28 U.S.C. § 2249.

Petitioner's objections are relevant only to the substance of his underlying *habeas* claims. They do not address the question of whether or not the *habeas corpus* petition was timely filed under § 2244. Therefore, even if the Court were to sustain Petitioner's objections, dismissal would still be required under § 2244.

For the foregoing reasons,

IT IS HEREBY ORDERED that the report and recommendation [DE 33] is ADOPTED as the findings and conclusions of the Court.

IT IS FURTHER ORDERED that Petitioner's objections [DE 37] are DENIED;

IT IS FURTHER ORDERED that Respondent's motion for summary judgment [DE 17] is GRANTED;

IT IS FURTHER ORDERED that Petitioner's motion for order requiring the United States to produce documents [DE 38] is DENIED.

SO ORDERED.

Date: April 10, 2006

s/Arthur J. Tarnow
Arthur J. Tarnow
United States District Judge

I certify that on the above mentioned date, I served all counsel of record either by electronic

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and/or ordinary mail.

s/Kendra Byrd
Deputy Clerk